

1 JAMES T. HANNINK (131747)  
jhannink@sdlaw.com  
2 ZACH P. DOSTART (255071)  
zdostart@sdlaw.com  
3 DOSTART HANNINK & COVENEY LLP  
4180 La Jolla Village Drive, Suite 530  
4 La Jolla, California 92037-1474  
Tel: 858-623-4200  
5 Fax: 858-623-4299

6 Attorneys for Plaintiffs

7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 HONEY McEWAN, SUSAN  
CAMERON, and LILLIAN GILDEN,

12 Plaintiffs,

13 vs.

14 OSP GROUP, L.P., a Delaware  
15 Limited Partnership, and DOES 2-50,  
16 inclusive

17 Defendants.

CASE NO. 3:14-cv-02823 BEN (WVG)

**FOURTH AMENDED COMPLAINT  
FOR VIOLATION OF THE  
CALIFORNIA INVASION OF  
PRIVACY ACT  
[Cal. Penal Code § 630 *et seq.*]**

**GENERAL ALLEGATIONS**

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2       1.     Plaintiff Honey McEwan (“McEwan”) is an individual residing in  
3 Healdsburg, California. Plaintiff Susan Cameron (“Cameron”) is an individual  
4 residing in Orange, California. Plaintiff Lillian Gilden (“Gilden”) is an individual  
5 residing in Porterville, California. McEwan, Cameron, and Gilden are collectively  
6 referred to as “Plaintiffs.”

7       2.     Plaintiffs are informed and believe and thereon allege that defendant  
8 OSP Group, L.P. is a Delaware limited partnership that does business in this judicial  
9 district.

10       3.     Plaintiffs do not know the names of the defendants sued as DOES 2  
11 through 50 but will amend this complaint when that information becomes known.  
12 Plaintiffs allege on information and belief that each of the DOE defendants is  
13 affiliated with the named defendant in some respect and is in some manner  
14 responsible for the wrongdoing alleged herein, either as a direct participant, or as the  
15 principal, agent, successor, alter ego, or co-conspirator of the named defendant. For  
16 ease of reference, plaintiffs will refer to the named defendant and the DOE  
17 defendant collectively as “defendants.”

18       4.     Defendant OSP Group, L.P. removed this lawsuit to this Court pursuant  
19 to 28 U.S.C. § 1332(d). Venue is proper in this judicial district because defendant  
20 OSP Group, L.P. has not designated a principal office in California.

21       5.     During the applicable statute of limitations, while plaintiff McEwan  
22 resided in and was physically present in the State of California, and while she was  
23 using a cordless telephone, McEwan had one or more telephone communications  
24 with defendants’ representatives.

25       6.     During the applicable statute of limitations, while plaintiff Cameron  
26 resided in and was physically present in the State of California, and while she was  
27 using a landline telephone, Cameron had one or more telephone communications  
28 with defendants’ representatives in which she provided confidential personal and

1 financial information to defendants, including her address and credit card  
2 information.

3 7. During the applicable statute of limitations, while plaintiff Gilden  
4 resided in and was physically present in the State of California, and while she was  
5 using a cellular telephone, Gilden had one or more telephone communications with  
6 defendants' representatives.

7 8. Plaintiffs allege on information and belief that defendants secretly  
8 recorded these communications. Defendants did not notify McEwan, Cameron, or  
9 Gilden that defendants were recording the communications, nor did defendants  
10 obtain plaintiffs' consent.

### 11 **FIRST CAUSE OF ACTION**

12 (Violation of Cal. Penal Code § 630 *et seq.*)

13 9. Plaintiffs incorporate by reference all of the preceding paragraphs.

14 10. Penal Code § 632 prohibits the intentional recording of a confidential  
15 communication without the consent of all parties to the communication. Plaintiff  
16 Cameron had an objectively reasonable expectation that her telephone  
17 communications were confidential and were not being recorded. There were no  
18 beeps, warnings, or recording disclosures played that would lead Cameron to  
19 believe that her communications were being recorded. Defendants violated § 632  
20 by intentionally recording the communications with plaintiff Cameron without  
21 obtaining her consent.

22 11. Penal Code § 632.7 prohibits the intentional recording of a  
23 communication without the consent of all parties where at least one of the parties to  
24 the communication is using a cellular or cordless telephone. Defendants violated  
25 § 632.7 by intentionally recording the communications with plaintiffs McEwan and  
26 Gilden without obtaining their consent.

27 12. As a result of defendants' conduct, plaintiffs have been injured.  
28 Accordingly, plaintiffs are entitled to statutory damages of \$5,000 per recorded

1 communication pursuant to Penal Code § 637.2(a)(1) and injunctive relief to halt the  
2 secret recording of communications pursuant to Penal Code § 637.2(b).

3 **PRAYER**

4 WHEREFORE, plaintiffs pray for judgment against defendants as follows:

- 5 1. For statutory damages as alleged herein;  
6 2. For injunctive relief as alleged herein;  
7 3. For costs of suit;  
8 4. For pre-judgment interest; and  
9 5. For such other relief as the Court may deem just and proper.

10 Dated: November 15, 2016

DOSTART HANNINK & COVENEY LLP

11  
12 /s/ James T. Hannink

13 JAMES T. HANNINK

14 Attorneys for Plaintiffs

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